

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

TYWAN HYATT,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. CIV-10-1396-F
	)	
JAMES RUDEK, WARDEN,	)	
	)	
Respondent.	)	

**ORDER**

Petitioner Tywan Hyatt brings this action under 28 U.S.C. § 2254, challenging his state court convictions on various federal constitutional grounds. Petitioner appears *pro se* and his pleadings are liberally construed.

The court has previously entered an order denying habeas relief as to ground five. Order, doc. no. 15. The Supplemental Report and Recommendation now before the court recommends denying relief as to grounds one through four. The Supplemental Report and Recommendation was submitted by Magistrate Judge Gary M. Purcell on July 5, 2012. Doc. no. 22.

Petitioner filed objections to the magistrate judge's recommended findings and conclusions as stated in the Supplemental Report and Recommendation. Objections, doc. no. 23. The court reviews all objected to matters *de novo*.

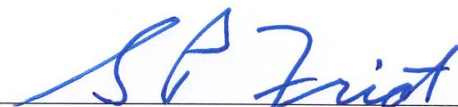
Upon review, and having considered defendant's objections, the court concurs with the magistrate judge's determinations and concludes that it would not be useful to cite any additional arguments or authorities here.

Accordingly, the Supplemental Report and Recommendation of Magistrate Judge Purcell is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. Based on the court's previous denial of relief with respect to ground five, and in conjunction

with the instant order denying relief with respect to grounds one through four, the petition for a writ of habeas corpus is **DENIED**.

Petitioner is entitled to a certificate of appealability only upon making a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). This standard is satisfied by demonstrating that the issues movant seeks to raise are deserving of further proceedings, debatable among jurists of reasons, or subject to different resolution on appeal. *See, Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (“[W]e give the language found in §2253(c) the meaning ascribed it in [*Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)], with due note for the substitution of the word ‘constitutional.’”). “Where a district court has rejected the constitutional claims on the merits,...[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Id.* When a prisoner’s habeas petition is dismissed on procedural grounds without reaching the merits of the prisoner’s claims, “a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.* Petitioner has not made the requisite showing; a certificate of appealability is **DENIED**.

Dated this 13<sup>th</sup> day of August, 2012.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE